

**NORTH PARK REDEVELOPMENT
PROJECT AREA COMMITTEE (PAC)
REGULAR MEETING MINUTES**

Tuesday, April 14, 2009

San Diego National Bank (6th Floor), 3180 University Avenue, San Diego, CA
92104

Comments and PAC actions relating to items on today's agenda are noted herein.

I. ROLL CALL & INTRODUCTIONS

Meeting convened at 6:05 p.m. Quorum was established.

Stephanie Cass	Present	Roger Lewis	Present
Kirsten Clemons	Present	Judi O'Boyle	Present (6:18pm)
Patrick Edwards	Present	Travis Sizer	Present
Don Leichtling	Present	Robert Steppke	Present
		Robert Bauer	Installed - present
Jim Tinsky	Installed - present	Mark Stern	Installed - present

II. ADOPTION OF AGENDA

Motion (Cass/Leichtling): Adopted with following changes: Move informational presentations F & G up to follow after B so presenters don't have to wait through PAC business

Passed (7-0)

III. APPROVAL OF MINUTES

Motion (Leichtling/Cass): To adopt the February meeting minutes with following amendment: "Wilkinson" should not be included in the roll call as the seat is vacant

Passed (7-0)

IV. ELECTED OFFICIALS REPORT

District 3 representative Anthony Bernal discussed water allocation proposal. Informed PAC that the City's Water Allocation program has been postponed temporarily with odd/even residential users usage program expected to fulfill the required 7% city wide reduction.

V. PUBLIC COMMENT

Liz Studebaker of NP Main Street announced some cars have been recently vandalized in the parking structure and that the Council Land Use and Housing Comm. Will discuss a check cashing ordinance at it's next meeting. Mike Lengyel (agency) indicated security in garage is being increased immediately with additional on site security and working on adding another camera and fencing the entry point.

VI. CHAIR'S REPORT

A. Lewis announced that the PAC February election has been certified by Mayor and the the newly elected committee for the 2009 term will be seated.

B. Lewis noted that all committee members should have received electronic copies of both letters submitted representing PAC actions taken at the March meeting as well as supplemental information regarding Lyric Opera's request on the agenda and dates to consider for PAC special meeting.

C. Lewis reported on a conversation with Marlon Pangilinan regarding the motion to include a PAC representative as full member of the community plan update committee. Pangilinan stated NP Planning Committee would provide its recommendation of makeup of the 6 remaining seats, (e.g. 2 business owners seats, etc.) to city at its upcoming meeting. City will meet then with council office to consider and decide upon those recommendations. Pangilinan assured a formal response would come to the PAC in time for PAC action either to appoint a member or decide upon what further action to take at the PAC's May meeting.

D. Lewis announced the ribbon cutting ceremony for the Boulevard Apartment project on April 22 at 10:00 am.

VII. ACTION/DISCUSSION ITEMS

A. Installation of New PAC Members.

Jim Tinsky, Mark Stern and Robert Bauer, all newly elected in the February election, were asked to join the carryover and re-elected member at the committee table

B. Election of New PAC Officers.

Lewis conducted nomination and election process for chair.

Chair: Clemons was nominated for chair by Patrick Edwards. Clemons accepted and was seconded by Leichtling. No other nominations. Vote to seat Clemons by acclamation (11-0-0).

Vice-chair: Leichtling nominated himself, seconded by Bauer. Cass nominated Cass. Seconded by Edwards. Clemons nominated Lewis. Lewis declined. O'Boyle nominated herself, seconded by Steppke. Nominees offered personal statements. Vote results: Leichtling (2 – Leichtling, Cass), O'Boyle (7), Cass (2 Edwards, Tinsky) O'Boyle elected Vice-chair.

Secretary: Lewis nominated by Steppke. Lewis accepted, seconded by Leichtling. Vote to seat Lewis by acclamation (10-0-1 abstained: Lewis)

C. Statement of Economic Interests

Stacy Fulhorst from city's ethics commission presented on necessity for all elected/govt. officials filing statement of economic disclosures. Stated staff attempts to be very responsive to inquiries and went over Form 700 disclosure filing. Mike Mueller former community member gave his story as a violator to impress importance of filing to committee. In general PAC members are involved because of usually having a tangible interest in the project area. Form 700 should be filled directly with the city clerk, not with any other city staff. No penalty for amending an existing filing. Elaborated on conflicts of interests.

D. Presentation of Draft Findings of Blight Analysis

Rosenow Spevacek Group (RSG) reporting. Kathy Spevacek and Ken Lee began a presentation on the plan amendment, the purpose of which is to extend eminent domain authority. The previous authority expired March 4th of this year after 12 years. Actual property acquisition process involves first appraising the property in contact with owner. Next, the appraisal is reviewed by agency staff and offer is made based upon highest appraisal. If accepted, escrow moves forward. However, a super-majority of council must approve eminent domain taking if agreement can not be reached. Court trial is potential final remediation. Lee talked about 1033 exchange and its tax benefits (2 years) as inducement mechanism for owner to avoid a 'taking'. RSG will return in May with specific findings for Plan Amendment to affect the reauthorization being presented in the "Report to Council".

Sizer: Asked if project area boundary is susceptible to change? Spevacek: no boundary change, just a single amendment.

Bauer: Asked if adjacent property owners have any right to intervene/halt process?

Spevacek: Only can request notice of hearing and speak at that time.

Edwards: Asked for more clarity on 1033 exchange. Lee: Differentiation made between 1031 and 1033 exchange (1033 extend period to identify exchange property).

Leichtling: Asked if new blight be identified. Spevacek: yes.

E. Vacant Business Owners Seat.

Noticed but no candidate responded, seat will be re-noticed and agendized again in May.

F. Special meeting for Discussion of Board Scope and Organization.

Dates presented previously to PAC along with additional dates were considered.

Committee decided upon Saturday May 2nd at 5:00 pm with the location to be determined. Lewis stating as he would be the only member unable to attend another member would have to fill secretary's role.

G. Appointment of Maintenance Assessment District Representative

Steppke, current MAD liaison, stated he was taking MAD vice-chair for the coming term and was willing to continue reporting/representing the PAC as liaison.

Motion (Edwards/Lewis): Rob Steppke to be PAC liaison to MAD.

Passed (11-0-0):

H. Request for Financial Assistance from Lyric Opera San Diego

Leon Natker, General Director Lyric Opera San Diego (LOSD) talked about necessity to remediate initial construction deficiencies that have become a burden on operations. He stated original plan was for theater to have use of theater for \$1 a year for 60 years, however, three months into its operation the developer decided he wanted out. Initially developer offered theater to agency which did not have funds available for purchase and it fell to the LOSD, which purchased it taking on a \$4M mortgage. Issue is that once the CUP was approved no one went back to verify (commissioning) that heating and plumbing systems, flooring, etc. were correctly installed. Natker stated that as the City Attorney had signed off the audit verifying that all money was spent on what it was designated for that the developer can not be pursued for remedy. Natker stated a primary issue is the monthly bill for electric in summer is \$9K, way above what was projected due to a malfunctioning HVAC system. There are also fire code issues. He stated the historic restoration, (specifically the marquee), was never completed as promised in the DDA, LOSD being told by both the agency and developer that there was not sufficient remaining funding. Also currently needed is remediation of the onsite homeless problem. Specifically, he referred to much of the flooring being sub-standard and needing to be redone, especially in lobby, as it was not done correctly and was not inspected upon final for CUP. Additionally, carpet as well. The sump system was only completed on one side of the building and needs to be completed to prevent persistent wet weather flooding, mold, etc. All dressing room sinks need to be replaced as they are falling off the walls. Further a small roof repair is needed and repairs to IT systems, (conduits, T1 lines, etc). Natker indicated it was suggested by staff to lower operation costs, installation of solar panels to reduce \$20-30 K in energy bills per year on a current \$85K yearly cost. Suggested work could be done under a "Phase II" of this financial funding expenditure. LOSD would like to institute parking passes for high end donors whereby LOSD would pay \$2 of each \$5 per space with requested subsidy for the remaining \$3 under this funding request as a small perk that these benefactors would respond to more favorably to North Park. LOSD funds diverted from staff to patch works fixes. As a tenant at the time and not developer, LOSD was not allowed not in the room for final discussion between the agency and Developer Fisher and thus also not involved in the commissioning of systems in the theater.

Edwards: Stated LOSD was enticed to move into the theater at promise of \$1 a year fee but those involved left. He also suggested visible solar on this historic structure might be good to set a precedent for use on historic buildings in the future. Natker: LOSD had to step in and buy the theater 9 months after moving in as a tenant at the \$1 per year rate which was to be available for up to 6 years.

O'Boyle: Asked when mortgage was entered into did LOSD inspect at that time? Also cautioned PAC to keep in mind while considering this request the expected upcoming requests on other commercial developments and to maintain a balance among projects.

Natker: Stated LOSD's lender accepted and utilized initial appraisal of building under sign off of the city attorney and that the initial funding platform was solid. He indicated the LOSD donors have additional \$2M into theater and that the time limitation on legal recourse expires on fourth anniversary of CUP this July.

Stern: Asked if there was there any physical inspection at time of audit signoff by city attorney. Natker: They accepted inspection for CUP. Only the elevator and fire aspects were re-inspected, all other systems, etc. accepted per CUP action.

Stern: During financing for mortgage did lender want to inspect. Natker: No, was not option for us. That as a non-profit you are boxed in, your sometimes told if you want the money to go along.

Leichtling: Noted given size of \$600K being forgivable the community should get restitution in case of shorter term failure. Natker: No problem with looking at some long-term stipulation. Noted they are currently asking Chase bank for forbearance on current mortgage, due to be retired in 2012, to extend while paying interest only. Intent is to make the repairs and then get genuine re-appraisal of the theater allowing to re-finance downward based on real value. Then go back to donors.

Sizer: Are bids for new work involving contractors within NP area? Natker: Yes, mostly local contractors.

Tinsky: Can you quantify the loss in revenue you could attribute specifically to these deficiencies and wants to know how the PAC can best serve your needs? Natker: La Jolla Music Society is biggest outside user but has cancelled summer season. LOSD has seen drop in revenue of 20% from prior theater event presenters.

Steppe: Asked to re-visit prior water seepage issue for clarification and also raised concern over funding of things being requested that don't address making the initial product whole from deficiencies. Natker: Indicated LOSD still waiting on city process to be reimbursed for the \$12K authorized previously by PAC.

Lewis: Stated ongoing support for theater and not against considering the request. But continued that it is important for PAC in it's fiduciary capacity to be able to review what LOSD has both spent and is requesting for two reasons: so as to possibly return to responsible parties to see what can be done as well as to protect the public funding aspect. Stated further the importance of documenting what is being funded, to identify what is appropriate in remedying deficiencies to make it 'whole', what might be needed improvements and to separate out maintenance requests. Also asked, not knowing what deal was struck, if there wasn't an inspection when LOSD purchased the theater from the developer. Natker: LOSD purchased 9 months after opening. Lewis: Asked if none of these issues were apparent at the time. Natker: Not at that time.

Edwards: Raised concern that prior process of providing information and project specifics to the PAC during development was deficient.

Lewis: Suggested it was best to refer back to the DDA for specifics. Stated he would like to not only make the theater "whole" but would also like to see if there isn't a way to better promote the theater as a part of this effort.

Bauer: Felt as well that it was important to identify what repairs are for neglect on the part of developer and what is maintenance. Also noted that typically it is a 10 year warranty on contractual completeness of commercial systems. Natker: 4 Years usually.

Stern: Echoed concern on contractual completeness and wondered if the building was what LOSD expected they were getting. Also concerned with future loss of business.

Motion: (Lewis/Stern): That PAC be a party in discussions with agency, council office and LOSD on this funding request so as to consider implications regarding what is maintenance, what's for making the theater "whole" and how to better promote the

theater. Process to be completed in two months or less.

Passed (8-2-1 Against: Edwards, Leichting Abstained: Cass)

Volunteering for sub-committee: Bauer, Clemons, Lewis, O'Boyle, Stern, Tinsky

I. Re-formation of Project Area Improvements Sub-Committee.

Discussion included focusing on area improvement and not on maintenance and also of having one of the two committee members sitting on the MAD also seated on this sub-committee. Chair asked for committee volunteers. Volunteer asked for and committee formed of Leichtling, Steppke, Lewis and Sizer. Leichtling to coordinate location and time of first meeting.

VIII. SUB-COMMITTEE/LIAISON REPORTS

A. Maintenance Assessment District

Steppke reporting: Committee voted to allow trees to be trimmed during only certain period, cost can not be amortized over 12 months. New trash can locations being determined. Main Street has \$25k in bank form SD Arch Foundation for trees which MAD will maintain.

IX. STAFF REPORTS/PROJECT UPDATES

A. Brown Act

Lengel (agency) noted scheduling of Brown Act presentation still be worked on by city.

B Project Area Project Updates

Lengyel reporting: 1) RFP open to any proposal for mixed use is to be distributed (put up on Redevelopment web-site) on the JC Penney's Bldg (Big Lots) project as the owners have not presented a development proposal. 2) Agency will provide feedback on Boundary St improvements to the new formed PAC Area Improvements Sub-committee. 3) Lengyl provided monthly project update spreadsheet. (Included with minutes). 4) Provide members with a sign-up schedule sheet for manning the PAC booth at the NP Festival of the Arts.

Rosenthal reporting: 1) Palm trees on NP way behind theater trimmed. 2) Parking Garage Art Panel recommendations have been reviewed by both the agency and council and selection of artist(s) have been made. Final selection letter to be sent out shortly.

X. REQUESTS FOR NEXT AGENDA

- 1) Action on PAC representative to Community Plan Update Committee
- 2) RSG presents "Report to Council"
- 3) Vacant business owners seat

XI. ADJOURNMENT

Motion (Cass/Tinsky): To adjourn at 8:4pm

Passed (8-0-0)